

**REMARKS**

Please reconsider the application in view of the above amendments and the following remarks. Applicant thanks the Examiner for carefully considering this application.

**Disposition of Claims**

Claims 1-3 are now pending in this application. Claims 1-3 are independent.

**Claim Rejections under 35 U.S.C. §103**

Claims 1-3 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,257,308 to Plourde, Jr. *et al.* (hereinafter "Plourde") in view of U.S. Patent No. 6,748,481 to Parry *et al.* (hereinafter "Parry"). For the reasons set forth below, this rejection is respectfully traversed.

One or more embodiments of the present invention are directed to a hard disk recorder having a time-shift playback function. With reference to Figure 3B of the present application, for example, a control unit 10 sets a hard disk in a pause state in response to an instruction to switch a channel (SP11), and sets the hard disk in a recording-wait state from the pause state (SP12). Then, the control unit 10 switches the channel without stopping the HDD 6 (SP13), setting the hard disk in a playback state (SP15) if the hard disk has been determined to be in the recording-wait state (SP14). Thus, in contrast to a conventional method as shown in Figure 3A of the present invention, the sector address played back most recently is not cleared when changing the channel because HDD is not completely stopped. Therefore, it is not necessary to

stop the time-shift play function when changing the channel (*see, e.g.*, Publication of the Specification paragraph of [0027]).

Accordingly, independent claims 1 and 2 require, in part, “a control unit configured to respond to a channel-switch instruction by setting said hard disk in a pause state from which a storing operation can be started.” Independent claim 3 requires, in part, “in response to an instruction to switch a channel . . . setting the hard disk in a pause state; setting the hard disk in a recording-wait state from the pause state.”

The Examiner alleges that Plourde discloses the above limitations required by independent claims 1-3 (*see* Office Action dated November 5, 2007, at page 4). However, in contrast to independent claims 1-3, Plourde fails to show or suggest at least the above limitations. In fact, Plourde teaches that the navigator 355 registers or reserves some user inputs and that the pause button 391 enables the user to pause a media content or to pause during a search *individually*.

Specifically, Plourde teaches “[t]he navigator 355 registers for and in some cases reserves certain user inputs related to navigational keys such as channel increment/decrement, last channel, favorite channel, etc” (*see* Plourde, column 15, lines 24-27). Also, Plourde teaches “[p]ause button 391 enables the user to pause a media content instance, or pause during a search for a particular media content instance” (*see* Plourde, column 30, lines 15-18). Thus, Plourde is completely silent with respect to a specific relationship between changing a channel and setting a hard disk in a pause state as required by independent claims 1-3. Therefore, Plourde necessarily cannot show or suggest, “a control unit configured to respond to a channel-switch instruction by setting said hard disk in a pause state from which a storing operation can be started,” as required by independent claims 1 and 2. Also, Plourde necessarily cannot show or suggest, “in response

to an instruction to switch a channel . . . setting the hard disk in a pause state; setting the hard disk in a recording-wait state from the pause state,” as required by independent claim 3.

Further, Applicant respectfully asserts that the Examiner has not considered the invention *as a whole*. Indeed, the Examiner has applied Plourde and selected individual features of the present invention as explained above. It is well settled that a claim must be read as a whole, rather than element by element (*see Ball Corporation v. US*, 729 F.2d 1429, 221 U.S.P.Q. 289 (Fed. Cir. 1984)). Thus, the Examiner's analysis of the claims is wholly improper.

In addition, Parry fails to disclose or suggest that which Plourde lacks. This is evidenced by the fact that Parry is relied on solely to provide that setting a hard disk into a recording wait-state and setting the hard disk in a playback state are known (*see* Office Action dated November 5, 2007, at page 5).

In view of above, Plourde and Parry, whether taken separately or in combination, fail to show or suggest the invention as recited in independent claims 1-3. Thus, independent claims 1 - 3 are patentable over Plourde and Parry. Accordingly, withdrawal of this rejection is respectfully requested.

### Conclusion

Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591, Pin No. 5883, Reference 04536/015001.

Dated: January 11, 2008

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